

Case No. F1600(V)

REMARKS

Applicants wish to thank the Examiner for reviewing the present patent application and opening prosecution. Moreover, support for the amendments may be found, among other places, on page 14 of the specification as originally filed. Therefore, no new matter has been added and the claim amendments are in compliance with 35 USC §132.

I. Rejection Under 35 USC §103

The Examiner has rejected claims 1-27 under 35 USC §103 as being unpatentable over Trainor, U.S. Patent No. 4,423,084 (hereinafter '084) in view of Ross, U.S. Patent No. 5,632,596 (hereinafter '596) and for the reasons set forth in the Board of Appeals decision of September 30, 2004.

In the rejection, the Examiner mentions, in summary, that the '084 reference discloses a process for making a salad dressing having starch, acidulant, egg, oil, water and sweetener. The Examiner continues by mentioning that the '084 reference is silent with respect to rotor and stator measurements, but relies on the specific apparatus features described in the '596 reference to cure the vast deficiencies of the primary reference. In view of this, the Examiner believes that the obviousness rejection of all claims is warranted.

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Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above described for at least the following reasons.

As continuously made of record, the present invention is directed to a process for making a dressing composition, the dressing composition being a mayonnaise or salad dressing. The process is carried out in an in-line mixer/emulsifier whereby a coarse emulsion is sent through the in-line mixer/emulsifier in a single pass to produce the desired dressing composition. Thus, independent claim 1, is directed to a process for making a mayonnaise and/or salad dressing composition in the same production line such that a coarse emulsion is sent through an apparatus in a single pass. Only one production line is required in order to make two distinct dressing compositions.

The invention of claim 1 is further defined by the dependent claims which claim, among other things, various and unobvious process modifications which include axial opening dimensions, the diameter of the stator and rotor, the rotational speeds of the rotor, the tip speed of the rotor, the throughput of the process, the characteristics of the rings of the teeth of the stator and rotor, and the presence of radial channels on the stator and rotor. The process of claim 1 is still further defined in that the raw ingredients can comprise an oil phase, an egg phase, an aqueous phase, a starch paste phase, a sweetener phase, an acidulant phase, optional solids, or combinations thereof. Claims 23 and 24 identify certain raw ingredients and claims 25-27 define the type of emulsifier and amounts employed. New dependent claim 28 further defines the process of claim 1 such that the mayonnaise produced and salad dressing produced are firm to creamy and made with less oil and less emulsifying components when compared to conventional processes. Specifically, the process set forth in the claimed invention

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results in a mayonnaise or salad dressing composition that is firm to creamy in the absence of high levels of oil and emulsifying agents. Thus, good textures are achieved while reducing the amount of oil and/or emulsifying components when compared to conventional processes.

Claim 22 describes a dressing composition made by the process of claim 1.

In contrast, the '084 reference merely describes a process for making emulsified salad dressings in the absence of freeze-resistance starch. The '084 reference does not teach, suggest, or disclose, for example, the steps of forming a premix of raw ingredients which include an oil phase and an emulsifier phase to make a coarse emulsion to be fed in a single pass to an in-line mixer/emulsifier having a specific stator and rotor arrangement as claimed. Moreover, the '084 is silent with respect to oil amount, additives and emulsifier amounts as well as texture characteristics as set forth in the presently claimed invention.

The vast deficiencies of the '084 reference are not cured by the '596 reference since the '596 reference only discloses a rotor and stator assembly in an industrial mixer that can be used to blend various materials like adhesives, coatings, cosmetics, foods, pharmaceuticals and plastics. The combination of references relied on by the Examiner does not, even remotely, suggest blending mayonnaise and/or salad dressing compositions in one pass and in the same production line. Furthermore, the combination of references relied on by the Examiner does not, even remotely, suggest that a firm to creamy mayonnaise composition and/or salad dressing composition can be made with a creamy to firm texture while at the same time having less oil and/or emulsifier than conventional products.

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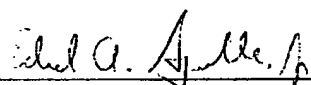
In view of the above, it is clear that the Examiner has not established a *prima facie* case of obviousness as required under 35 USC §103. In view of this, and since all claim limitations set forth in the presently claimed invention as now amended are not even remotely found in the combination of references relied on by the Examiner, it is respectfully requested that the rejection made under 35 USC §103 be withdrawn and rendered moot.

Applicants respectfully submit that all claims of record are in condition for allowance. Reconsideration and favorable action are earnestly solicited.

Applicants further submit that they welcome any suggestions by the Examiner so that the present application can be passed to issue and so that Applicants may further business objectives.

In the event the Examiner has any questions concerning the present patent application, she is kindly invited to contact the undersigned at her earliest convenience.

Respectfully submitted,



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